

**REMARKS**

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-60 and 62 are pending in the present application. Claim 61 is canceled without prejudice and Claims 1, 3, 5, 11, 14, 28, 32, 34, 36, 37, 43-45 and 62 are amended by the present amendment.

In the outstanding Office Action, Claims 1, 3, 5, 7, 32, 34, 36, 61 and 62 were rejected under 35 U.S.C. § 102(e) as anticipated by Shimizu et al.; and Claims 11 and 14 were rejected under 35 U.S.C. § 103(a) as unpatentable over Shimizu et al. in view of Applicants' Admitted Prior Art (APA).

Claims 1, 3, 5, 7, 32, 34, 36, 61 and 62 were rejected under 35 U.S.C. § 102(e) as anticipated by Shimizu et al. This rejection is respectfully traversed.

Claim 1 is directed to a semiconductor device having an open portion with first and second widths. The second width extends in a direction perpendicular to a direction of a gate length and across a plurality of element isolating regions.

In a non-limiting example, Figure 3B shows the pattern of the open portion 17 extends over the element separating region 15 in the selective gate region, with the result that the bottom surface of the groove 17' is positioned higher than the element region 10 (see the specification at page 24, lines 2-6). Also, in the open portion 17 of the insulating film 16, the length of the open portion 17 in a direction perpendicular to the direction of the gate length L is large, though the width of the open portion 17 and the direction of the gate length L is small (see the specification at page 29, lines 16-21).

As an advantage, the resolution is improved in the lithography process in patterning the open portion 17. Further, it is possible to form a fine open portion 17 even when the gate

length L of the selective transistor is rendered long in accordance with miniaturization of the selective transistor (see the specification at page 29, lines 21-27).

In contrast, in the system according to Shimizu et al an open portion is formed in the shape of an island for every element region (see Figure 60 of Shimizu et al). Accordingly, the open portion does not extend in a direction perpendicular to the direction of a gate length across a plurality of element isolating regions.

Therefore, Shimizu et al does not teach or suggest the features of Claim 1, and it is respectfully submitted that independent Claim 1 and each of the claims depending therefrom patentably distinguish over Shimizu et al.

Claims 11 and 14 were rejected under 35 U.S.C. § 103(a) as unpatentable over Shimizu et al in view of APA. This rejection is respectfully traversed.

As discussed, independent Claim 1 is believed to distinguish over Shimizu et al. Further, it is respectfully submitted that APA also does not teach or suggest the features of Claim 1. Accordingly, it is respectfully submitted Claims 11 and 14, which depend on Claim 1, also are allowable for at least similar reasons as Claim 1.

In addition, Claims 1, 3, 5, 11, 14, 28, 32, 34, 36, 37, 43-45 and 62 are amended to correct minor informalities and to better conform with U.S. claim drafting practice. It is believed no new matter is added.

Further, the specification and the abstract are also amended to correct minor informalities and it is believed no new matter is added.

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Consequently, in light of the above discussion and in view of the present amendment, this application is believed to be in condition for allowance and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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